

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

FILED

JUL 18 2000

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:)	
)	
INTERNATIONAL HERITAGE, INC.)	CASE NO. 98-02675-5-ATS
)	CHAPTER 7
INTERNATIONAL HERITAGE,)	CASE NO. 98-02674-5-ATS
INCORPORATED,)	CHAPTER 7
)	
Debtor.)	

IDENTIFICATION OF PRIVILEGED DOCUMENTS

NOW COMES John Brothers and shows unto the court the following:

1. On March 28, 2000 Holmes P. Harden, Trustee in Bankruptcy in this matter, moved the Court for "Approval of Compromise and Settlement" seeking an order of the Court allowing the Trustee to waive the attorney-client privilege and work-product protection of the debtors herein.
2. On April 10, 2000 John Brothers objected to that request asserting that among the documents of the debtors there appeared some covered by Brothers' individual attorney-client privilege and protection of the attorney work-product doctrine of Brothers' individual attorneys.
3. On June 7, 2000 the Court entered an order allowing the Trustee's Motion for Approval of Compromise and Settlement thereby allowing the Trustee to waive the debtors' attorney-client privileges. Therein the Court made "no finding regarding documents presently withheld on grounds that they come within the work-product doctrine, or regarding documents that include confidential communications between attorneys and individuals seeking legal counsel in their individual capacities."

4. Subsequently Brothers and others filed notices of appeal and sought stays of the Court's order pending appeal.

5. On June 28, 2000 the Court entered an order denying the motions for stays pending appeals and directing appellants to identify documents. That order stated "Each appellant shall, before July 18, 2000, identify any documents that he or she alleges to be subject to his or her individual claim of privilege."

6. The undersigned is informed that the documents originally withheld by the debtors as privileged constituted approximately 60,000 pages.

7. The undersigned is informed that counsel for appellants Stan Van Etten and Wood & Francis, PLLC have reviewed those documents and developed and produced today a list of privileged documents briefly identifying each document, its date, and the individual privileges covering each document.

8. Recognizing the volume of documents involved and the shortness of time allowed by the court for identification, Brothers adopts that privilege list filed by appellants Van Etten and Wood & Francis, PLLC and asserts his attorney-client privilege as to all documents contained therein covered by Brothers' individual attorney-client privilege and the work-product protection of Brothers' individual attorneys.

9. In addition, Brothers asserts his individual attorney-client privilege and/or the protection of the work-product doctrine of his individual attorneys for the following documents:

- a. Letter of 7/30/97 from Babener to Van Etten and Brothers.
- b. Letter of 1/29/99 from Robeson to Brothers.

10. Further review by counsel for Brothers may reveal additional privileged documents. Counsel for Brothers will notify the court of those documents as they are identified.

This 18th day of July, 2000.

McMILLAN, SMITH & PLYLER

A handwritten signature in black ink, appearing to read "ST Smith", written over a horizontal line.

Stephen T. Smith
N.C. State Bar No. 5841
205 W. Martin Street
Post Office Box 150
Raleigh, North Carolina 27602
Telephone: (919) 821-5124

CERTIFICATE OF SERVICE

I, Stephen T. Smith, attorney for John Brothers, certify that I served the foregoing document on the 18th day July, 2000, upon the following parties, and in the manner below specified, by placing a copy thereof for each such party(ies) in a separate envelope bearing sufficient postage and depositing the same in the United States mail at Raleigh, North Carolina and/or by facsimile:

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This the 18th day of July, 2000.

McMILLAN, SMITH & PLYLER

A handwritten signature in black ink, appearing to read "STSMYH", is written over a horizontal line.

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